

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DAMROW FARMS, a general partnership,
Plaintiff,
v.
FIRST NATIONAL BANK OF
HOLDREGE, ERIC TITUS, DOUGLAS
SCOTT LATTE, KENNETH
SLOMINSKY, RONALD STERR, TIM
WIEBE, JEANETTE HARDEN, KIRK
RILEY, and MARK UTTER,
Defendants.

4:05CV3044

MEMORANDUM AND ORDER

The plaintiff has demanded North Platte as the place of trial for this case. Filing 11. The defendants oppose that demand and request Lincoln as the place of trial. For the reasons discussed herein, I conclude this case should be tried in Lincoln, Nebraska.

Numerous affidavits were filed as evidence for consideration on the place of trial issue. Some were signed and notarized; others were not. Under the administrative procedures of this court, the signature on electronically filed affidavits of counsel registered on this court's Electronic Case Filing (ECF) system need not be notarized. An "s/" signature is sufficient. However, an "s/" signature cannot replace an actual notarized signature for electronically filed non-attorney affidavits. Administrative Procedures (Civil Cases) II(C). Accordingly, in determining the place of trial for this case, notarized affidavits and affidavits of registered counsel signed with an "s/" were considered. All other affidavits were disregarded, as were conclusory statements such as "North Platte Nebraska is a

more convenient location than Lincoln, Nebraska for litigants, witnesses and Plaintiff's counsel." Filing 17, p. 2 ¶ 8.

The general partners of the plaintiff Damrow Farms, a partnership, are residents of Phelps County, Nebraska. The plaintiff's attorneys maintain offices in Gothenburg, Nebraska which is 35 miles from North Platte and 200 miles from Lincoln. Filing 17, p. 1 ¶¶ 4 & 6; filing 28, exs. A & B (Affidavits of Potter and Vinton).

The principal place of business for the defendant First National Bank-Holdrege is located in Holdrege, Phelps County, Nebraska, several of the individual defendants reside in Holdrege, and the majority of the plaintiff's witnesses are located in Phelps County, Nebraska. Holdrege, Phelps County, Nebraska, is approximately 90 miles from North Platte and 170 miles from Lincoln. Filing 17, pp. 1-2 ¶¶ 4, 5 & 7.

Defendant Hardin resides in Hastings, Nebraska, which is 107 miles from Lincoln and 152 miles from North Platte. Filing 26, ex. B (Affidavit of Jeanette Harden DeWalt). Defendant Utter lives in Sioux City, Iowa, which is 153 miles from Lincoln and 370 miles from North Platte. Filing 26, ex. C (Affidavit of Utter). Counsel for defendants Sterr and Wiebe reside in Topeka, Kansas. In terms of travel time, for these attorneys, Lincoln is three hours closer. Filing 26, ex. A (Affidavit of Schultz). Counsel for the defendant bank is located in Omaha, Nebraska. The court takes judicial notice of the fact that Omaha is 60 miles from Lincoln and 280 miles from North Platte.

Although none of the parties, witnesses, or counsel resides in Lincoln, the trial judge assigned to this case does and, when

the interests of all witnesses, parties, and counsel are considered, Lincoln is a more central location for this case than North Platte.

IT THEREFORE HEREBY IS ORDERED: Plaintiff's demand for North Platte as the place of trial, filing 11, is denied. The place of trial for this case is Lincoln, Nebraska.

DATED this 18th day of May, 2005.

BY THE COURT:

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge